

(Del. Rev. 11/14) Pro Se General Complaint Form

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Alexander Edmund Good

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Civ. Action No. 22 - 325
(To be assigned by Clerk's
Office)

Capital One N.A.

COMPLAINT
(Pro Se)

Jury Demand?

☐ Yes
☒ No

(In the space above enter the full name(s) of the defendant(s).
If you cannot fit the names of all of the defendants in the
space provided, please write "see attached" in the space
above and attach an additional sheet of paper with the full list
of names. The names listed in the above caption must be
identical to those contained in Section I. Do not include
addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

If this is an employment discrimination claim or social security claim, please use a different form.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

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U.S. DISTRICT COURT
DISTRICT OF DELAWARE
FILED
MAR 15 2022
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I. PARTIES IN THIS COMPLAINT**Plaintiff**

List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff:

Goode, Alexander, E

Name (Last, First, MI)

920 N Madison St. Apt. 3

Street Address

New Castle, Wilmington, DE

County, City

State

19801

Zip Code

609-489-3531

Telephone Number

alexander.e.goode@gmail.com

E-mail Address (if available)

Defendant(s)

List all defendants. You should state the full name of the defendants, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant can be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1:

Capital One NA

Name (Last, First)

802 Delaware Avenue

Street Address

New Castle, Wilmington, DE

County, City

State

19801

Zip Code

Defendant 2:

Name (Last, First)

Street Address

County, City

State

Zip Code

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Defendant(s) Continued

Defendant 3:

Name (Last, First)

Street Address

County, City

State

Zip Code

Defendant 4:

Name (Last, First)

Street Address

County, City

State

Zip Code

II. BASIS FOR JURISDICTION

Check the option that best describes the basis for jurisdiction in your case:

- ☐ **U.S. Government Defendant:** United States or a federal official or agency is a defendant.
- ☐ **Diversity of Citizenship:** A matter between individual or corporate citizens of different states and the amount in controversy exceeds \$75,000.
- ☒ **Federal Question:** Claim arises under the Constitution, laws or treaties of the United States.

If you chose "Federal Question", state which of your federal constitutional or federal statutory rights have been violated.

Public Law 117-2 Section 9501(a)(5)(A)
Defendant did not provide notice of premium
assistance eligibility for COBRA in violation
of ARPA.

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III. VENUE

This court can hear cases arising out of the Counties of New Castle, Kent, and Sussex in the State of Delaware.

Under 28 U.S.C § 1391, this is the right court to file your lawsuit if: (1) All defendants live in this state AND at least one of the defendants lives in this district; OR (2) A substantial part of the events you are suing about happened in this district; OR (3) A substantial part of the property that you are suing about is located in this district; OR (4) You are suing the U.S. government or a federal agency or official in their official capacities and you live in this district. Explain why this district court is the proper location to file your lawsuit.

Venue is appropriate in this Court because:

My former place of employment with Capital One is in New Castle County in the State of Delaware where I also reside.

IV. STATEMENT OF CLAIM

Place(s) of
occurrence:

Wilmington, DE

Date(s) of occurrence:

April 1, 2021 - Present

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions.

FACTS:

What
happened to
you?

1. I was involuntarily terminated from Capital One N.A. on May 13, 2020. After this, I received letters stating that I am eligible for COBRA health insurance. I enrolled for the insurance and paid the premiums monthly. While on COBRA health insurance, Public Law 117-2 was passed into law (known as the American Rescue Plan Act of 2021). Part of the law was a provision that required employers to fully pay for COBRA premiums from April 1 through September 30, 2021. The employers would then be reimbursed by the federal government through a subsidy.
2. I reached out to Anthem several times to inquire about the subsidy in March/April 2021, and I was told at first to wait and then that Capital One was not considering me eligible for the COBRA premium subsidy. Anthem stated they were not aware of the reason for ineligibility, and that I would have to reach out to Capital One. I called Capital One on several occasions, and I was told that they would follow up. It took multiple phone calls, and then I was finally responded to by email. They provided a generic response, and then through multiple emails, I was finally told that I was being denied due to being terminated due to "gross misconduct".
3. It is true that you are ineligible for the COBRA subsidy if you are terminated due to "gross misconduct". However, I challenge this determination on two grounds.
 - i. My termination does not rise to the very high bar of gross misconduct.
 - a. My termination reason was for saying something that an associate misinterpreted and took offense to. I have consistently maintained that I did not intend my words to be interpreted in the crass way the associate interpreted them. In the eight years I worked at Capital One, I never had any complaint that I made comments a coworker found offensive before this.

- b. Capital One attempted to challenge my right to collect unemployment after this. I explained what happened, and the state's department of labor found that I was "discharged by your employer **without just cause** in connection with the work." Capital One did not attempt to appeal this ruling further, therefore, it accepted the ruling that I was not terminated for "just cause", which is a much lower legal threshold than "gross misconduct".
 - c. "Gross misconduct" still needs further definition by the courts, but it is often seen as very obvious and egregious misconduct. My reason for termination does not rise to this, and as stated, Capital One could not even prove the termination was for "just cause."
 - ii. Capital One already offered me COBRA, therefore, it cannot deny me the subsidy.
 - a. COBRA and the COBRA subsidy **both** have the same eligibility requirement that a terminated employee is ineligible due to gross misconduct.
 - b. Capital One offered and allowed me to enroll in COBRA without asserting that I was ineligible due to "gross misconduct".
 - c. Therefore, by offering and allowing me to enroll in COBRA, they already determined that I was not terminated due to gross misconduct. They can't say that I was terminated due to gross misconduct for the subsidy but then not for COBRA itself.
- 4. I made both these arguments in writing to Capital One, and my email was ignored. I also spoke to a US Department of Labor EBSA advisor, and I was told that their position is that if you are already on COBRA, you are eligible for the subsidy and cannot be

declared ineligible due to gross misconduct. The EBSA advisor reached out to Capital One several times and he finally was able to speak with Pamela Ventura, whom he stated was a vice president of HR in Capital One. He relayed to me that she would not reverse the decision and that Capital One would not honor the COBRA subsidy to me. It will be noted that the law does not provide the DoL any enforcement power in this matter, so this was the end of any administrative options outside of this court.

5. By not sending me notice of subsidy eligibility or providing the COBRA subsidy after being given notice, Capital One N.A. is in violation of Public Law 117-2 Section 9501(a)(5)(A), which means Capital One N.A. is not meeting the requirements of 29 U.S.C. 1166(4), which means per 29 U.S.C. 1132 (c) (1), I am entitled to civil penalties of \$110 per day plus any other relief the court may deem proper.

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V. INJURIES

If you sustained injuries related to the events alleged above, describe them here.

VI. RELIEF

The relief I want the court to order is:

- ☒ Money damages in the amount of: \$ 53,330.16
- ☐ Other (explain):

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VII. CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; and (3) complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

03/15/22

Dated

Alexander E. Good

Plaintiff's Signature

Goode, Alexander, E

Printed Name (Last, First, MI)

920 N. Madison St. Apt. 3, Wilmington, DE 19801

Address

City

State

Zip Code

609-489-3531

Telephone Number

alexander.e.good@gmail.com

E-mail Address (if available)

List the same information for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.